

Message

From: Faeth, Lisa [Faeth.Lisa@epa.gov]
Sent: 2/5/2019 3:58:03 PM
To: Anderson, Steve [Anderson.Steve@epa.gov]; Askinazi, Valerie [Askinazi.Valerie@epa.gov]; Baptist, Erik [Baptist.Erik@epa.gov]; Barkas, Jessica [barkas.jessica@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]; Blair, Susanna [Blair.Susanna@epa.gov]; Buster, Pamela [Buster.Pamela@epa.gov]; Canavan, Sheila [Canavan.Sheila@epa.gov]; Caraballo, Mario [Caraballo.Mario@epa.gov]; Carroll, Megan [Carroll.Megan@epa.gov]; Cherepy, Andrea [Cherepy.Andrea@epa.gov]; Christian, Myrta [Christian.Myrta@epa.gov]; Corado, Ana [Corado.Ana@epa.gov]; Davies, Clive [Davies.Clive@epa.gov]; Dekleva, Lynn [dekleva.lynn@epa.gov]; Devito, Steve [Devito.Steve@epa.gov]; Doa, Maria [Doa.Maria@epa.gov]; Drewes, Scott [Drewes.Scott@epa.gov]; Dunn, Alexandra [dunn.alexandra@epa.gov]; Dunton, Cheryl [Dunton.Cheryl@epa.gov]; Edelstein, Rebecca [Edelstein.Rebecca@epa.gov]; Edmonds, Marc [Edmonds.Marc@epa.gov]; Elwood, Holly [Elwood.Holly@epa.gov]; Faeth, Lisa [Faeth.Lisa@epa.gov]; Farquharson, Chenise [Farquharson.Chenise@epa.gov]; Fehrenbacher, Cathy [Fehrenbacher.Cathy@epa.gov]; Feustel, Ingrid [feustel.ingrid@epa.gov]; Frank, Donald [Frank.Donald@epa.gov]; Gibson, Hugh [Gibson.Hugh@epa.gov]; Gimlin, Peter [Gimlin.Peter@epa.gov]; Gorder, Chris [Gorder.Chris@epa.gov]; Gordon, Brittney [Gordon.Brittney@epa.gov]; Grant, Brian [Grant.Brian@epa.gov]; Gray, Shawna [Gray.Shawna@epa.gov]; Groeneveld, Thomas [Groeneveld.Thomas@epa.gov]; Guthrie, Christina [Guthrie.Christina@epa.gov]; Hanley, Mary [Hanley.Mary@epa.gov]; Helfgott, Daniel [Helfgott.Daniel@epa.gov]; Henry, Tala [Henry.Tala@epa.gov]; Kapust, Edna [Kapust.Edna@epa.gov]; Kemme, Sara [kemme.sara@epa.gov]; Koch, Erin [Koch.Erin@epa.gov]; Krasnic, Toni [krasnic.toni@epa.gov]; Lavoie, Emma [Lavoie.Emma@epa.gov]; Lee, Mari [Lee.Mari@epa.gov]; Lee, Virginia [Lee.Virginia@epa.gov]; Leopard, Matthew (OEI) [Leopard.Matthew@epa.gov]; Liva, Aakruti [Liva.Aakruti@epa.gov]; Lobar, Bryan [Lobar.Bryan@epa.gov]; Mclean, Kevin [Mclean.Kevin@epa.gov]; Menasche, Claudia [Menasche.Claudia@epa.gov]; Morris, Jeff [Morris.Jeff@epa.gov]; Moss, Kenneth [Moss.Kenneth@epa.gov]; Mottley, Tanya [Mottley.Tanya@epa.gov]; Moyer, Adam [moyer.adam@epa.gov]; Myers, Irina [Myers.Irina@epa.gov]; Myrick, Pamela [Myrick.Pamela@epa.gov]; Nazef, Laura [Nazef.Laura@epa.gov]; Ortiz, Julia [Ortiz.Julia@epa.gov]; Owen, Elise [Owen.Elise@epa.gov]; Parsons, Doug [Parsons.Douglas@epa.gov]; Passe, Loraine [Passe.Loraine@epa.gov]; Pierce, Alison [Pierce.Alison@epa.gov]; Pratt, Johnk [Pratt.Johnk@epa.gov]; Price, Michelle [Price.Michelle@epa.gov]; Reese, Recie [Reese.Recie@epa.gov]; Reisman, Larry [Reisman.Larry@epa.gov]; Rice, Cody [Rice.Cody@epa.gov]; Richardson, Vickie [Richardson.Vickie@epa.gov]; Ross, Philip [Ross.Philip@epa.gov]; Sadowsky, Don [Sadowsky.Don@epa.gov]; Santacroce, Jeffrey [Santacroce.Jeffrey@epa.gov]; Saxton, Dion [Saxton.Dion@epa.gov]; Scarano, Louis [Scarano.Louis@epa.gov]; Scheifele, Hans [Scheifele.Hans@epa.gov]; Schmit, Ryan [schmit.ryan@epa.gov]; Schweer, Greg [Schweer.Greg@epa.gov]; Scott Selken, **Personal Email / Ex. 6** Scott, Elizabeth [Scott.Elizabeth@epa.gov]; Selby-Mohamadu, Yvette [Selby-Mohamadu.Yvette@epa.gov]; Seltzer, Mark [Seltzer.Mark@epa.gov]; Sheehan, Eileen [Sheehan.Eileen@epa.gov]; Sherlock, Scott [Sherlock.Scott@epa.gov]; Simons, Andrew [Simons.Andrew@epa.gov]; Sirmons, Chandler [Sirmons.Chandler@epa.gov]; Slotnick, Sue [Slotnick.Sue@epa.gov]; Smith, David G. [Smith.DavidG@epa.gov]; Smith-Seam, Rhoda [smith-seam.rhoda@epa.gov]; Stedeford, Todd [Stedeford.Todd@epa.gov]; Strauss, Linda [Strauss.Linda@epa.gov]; Symmes, Brian [Symmes.Brian@epa.gov]; Tanner, Barbara [Tanner.Barbara@epa.gov]; Thompson, Tony [Thompson.Tony@epa.gov]; Tierney, Meghan [Tierney.Meghan@epa.gov]; Tillman, Thomas [Tillman.Thomas@epa.gov]; Tomassoni, Guy [Tomassoni.Guy@epa.gov]; Tran, Chi [Tran.Chi@epa.gov]; Turk, David [Turk.David@epa.gov]; Vendinello, Lynn [Vendinello.Lynn@epa.gov]; Wallace, Ryan [Wallace.Ryan@epa.gov]; Wheeler, Cindy [Wheeler.Cindy@epa.gov]; Widawsky, David [Widawsky.David@epa.gov]; Williams, Aresia [Williams.Aresia@epa.gov]; Williams, Bridget [Williams.Bridget@epa.gov]; Williamson, Tracy [Williamson.Tracy@epa.gov]; Wills, Jennifer [Wills.Jennifer@epa.gov]; Wise, Louise [Wise.Louise@epa.gov]; Wolf, Joel [Wolf.Joel@epa.gov]; Wright, Tracy [Wright.Tracy@epa.gov]; Yowell, John [yowell.john@epa.gov]
Subject: News Articles (For EPA Distribution Only)

BNA DAILY ENVIRONMENT REPORT ARTICLES

Wheeler Vote

Posted Feb. 5, 2019, 7:40 AM

ED_002682_00042201-00001

By [Chuck McCutcheon](#)

WHEELER VOTE: Andrew Wheeler is expected to move a step closer to becoming the EPA's permanent chief.

The Senate Environment and Public Works Committee takes up his nomination to succeed scandal-tainted Scott Pruitt, whose resignation in July 2018 made Wheeler the agency's acting administrator.



Acting EPA Administrator Andrew Wheeler speaks during a Bloomberg Technology Television interview in San Francisco on Feb. 4.

Photographer: David Paul Morris/Bloomberg via Getty Images

Wyoming GOP Sen. John Barrasso, the committee's chairman, said Wheeler's nomination could reach the Senate floor within a couple weeks. Wheeler was confirmed on a 53-45 vote as deputy administrator in April 2018, and the bolstering of the GOP's majority since then makes his elevation to permanent administrator extremely likely.

To contact the reporter on this story: Chuck McCutcheon in Washington at cmccutcheon@bloombergenvironment.com

To contact the editor responsible for this story: Gregory Henderson at ghenderson@bloombergenvironment.com

INSIDEEPA.COM ARTICLES

[Wheeler Allows Re-Appointments For SAB But Taps Controversial New Picks](#)

Acting EPA chief Andrew Wheeler is allowing Obama-era appointees to the Science Advisory Board (SAB) to serve a second term, a change from his predecessor's policy that limited such re-appointments, though Wheeler is continuing to bar scientists who receive agency grants from serving and also named some controversial new SAB picks.

EPA Faces New State Pressure To Tighten Assessment Of PFAS Risks

EPA is facing pressure from states and water utilities to tighten its assessment of the risks posed by a pair of per- and polyfluoroalkyl substances (PFAS) substances, known as GenX and PFBS, intensifying pressure on the agency to step up its oversight of the broad class of chemicals in part as a way to harmonize state standards.

House Democrats seek PV29 data EPA calls trade secret

The Democrats' request echoes environmentalists' charges that the revised TSCA does not allow EPA to withhold health and safety studies by claiming they are confidential business information.

EPA sends proposed CDR revisions for OMB review

The White House is reviewing a proposed rule updating EPA's chemical data reporting rule after industry, states, and environmentalists have sparred over potential changes to the program.

House members pick science, natural resources panel assignments

Democratic leaders on the House science committee have named their subcommittee chairs and members for the current Congress, along with Republicans on the chamber's Natural Resources Committee.

CHEMICAL WATCH ARTICLES

EPA extends TSCA new chemicals reviews due to shutdown

Thirty three day delay applied to 581 existing reviews

5 February 2019 / Substance notification & inventories, TSCA, United States



The US EPA has extended the review periods of more than 600 TSCA new chemical notifications as a result of the federal government's shutdown.

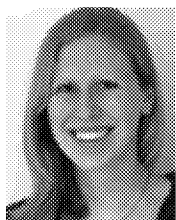
In a pre-publication *Federal Register* notice, the EPA said the 33-day extension is necessary for the agency "to complete its risk assessments, to examine its regulatory options, and to prepare the necessary documents associated with the relevant determination under TSCA." Its duration aligns with the time period between when the agency shut down (29 December 2018) and when the TSCA new chemicals programme fully resumed (31 January).

The delay will apply to 581 new chemical notifications that were undergoing review when the government shut down, according to the EPA. This includes pre-manufacture notices (PMNs), significant new use notices (Snuns), microbial commercial activity notices (MCANs) and exemption notices submitted under section 5 of the law. The EPA is generally required to complete reviews for these within 90 days unless a voluntary suspension is agreed.

The EPA has also clarified that the 24 new notifications submitted during the shutdown were not processed until normal operations resumed and, therefore, their review periods will begin on 31 January.

The agency's move to extend the reviews is consistent with what industry groups and lawyers [had forecast](#) in interviews with Chemical Watch last month, but nonetheless has raised concern that this will only worsen [the backlog](#) of new substance reviews.

And the possibility of the EPA being shuttered again has not been ruled out, as a spending deal must be agreed before the [continuing resolution](#) that is currently funding the agency expires on 15 February.



[Kelly Franklin](#)

North America editor

Related Articles

- [US EPA to keep running temporarily despite government shutdown](#)
- [Shutdown spells further delays to TSCA new chemicals reviews](#)
- [TSCA new substance backlog tops 550 cases](#)
- [Temporary end to US shutdown leaves uncertainty at EPA](#)

Further Information:

- [Notice](#)
- [Federal Register notice \(pre-publication\)](#)

Appeal board rules Echa breached right to be heard

Thor GmbH argued against request to be part of joint submission

5 February 2019 / Data, Europe, REACH, Substance registration



Echa's Board of Appeal (BoA) has ruled that the agency breached the appellant's right to be heard in a case about joint submission and the "one substance, one registration" principle.

German speciality chemicals company Thor GmbH appealed against a 2017 request from Echa to participate in a joint registration for "tetrakis (hydroxymethyl) phosphonium chloride, oligomeric reaction products with urea". The substance has EC number 500-057-6 and Cas number 27104-30-9.

The BoA found that the request from Echa was actually a 'Decision' and that the agency had not followed the proper procedure with regard to right of reply. The BoA ruling annuls the contested Decision, refunds the appeal fee and sends the case back to the agency for further action.

Background

Multiple registrations for 'tetrakis (hydroxymethyl) phosphonium chloride, oligomeric reaction products with urea' were submitted for the REACH deadlines in 2010 and 2013.

However, in 2015, the implementing Regulation came into force, emphasising the "one substance, one registration" principle. In 2016, Solvay Solutions UK Limited created a joint registration for the substance, with itself as lead registrant, and invited others to join.

Thor, which already had a registration for a substance with the same names and identifiers, discussed with Solvay:

- 'boundary composition';
- classification and labelling;
- the price and conditions of purchasing a letter of access; and
- 'the scope of the joint registration'.

The company did not join the Solvay registration, however.

The contested Decision, adopted in 2017, said that the substances were the same and asked all the registrants to submit their information together, as required by the "one substance, one registration" principle.

Thor was represented by Jean-Philippe Montfort and Thomas Delille from law firm Mayer Brown.



Andrew Turley

Further Information:

- [BoA Decision](#)

US state attorney-generals petition EPA on asbestos reporting rule

TSCA section 21 petition wants 'deficiencies addressed'; follows denied NGO request

5 February 2019 / CMRs, Data, TSCA, United States



More than a dozen US state attorney-generals have petitioned the EPA to develop an asbestos reporting rule under section 8 of TSCA.

The TSCA section 21 petition, submitted on 31 January, calls on the agency to initiate a rulemaking to "address deficiencies" in the existing chemical data reporting (CDR) rule for asbestos.

More specifically, they have requested that the EPA adopt a new asbestos reporting rule that:

- closes exemptions that exist in the CDR for naturally occurring substances and impurities;
- extends the reporting requirements to processors of asbestos; and
- requires notification of the substance's use in articles.

This is necessary, they argued, for the EPA to comply with its mandate to conduct risk evaluations for asbestos under section 6 of TSCA and to adopt regulations to address any unreasonable risk it poses to human health or the environment.

"It also would be an important right-to-know tool to give our states and the public access to information that may be critical for avoiding potentially dangerous exposures to asbestos-containing products," the attorneys added.

The petition comes shortly after the EPA's determination [to reject a similar request](#) submitted by a group of NGOs.

In its response, the agency told the petitioners that it "is aware of all ongoing uses of asbestos and already has the information that EPA would receive if EPA were to amend the CDR requirements."

And it said that, even if it were to grant the petition, it would not be able to finalise a new rule and collect information under it in time to inform its risk evaluation. The [first ten](#) risk evaluations under the reformed TSCA, of which asbestos is one, must be completed by December, with a possible six-month extension.

Nonetheless, the attorneys said in their petition that it is critical to public health that the EPA considers the knowable universe of potential exposures and eliminate those pathways.

"Neither of these goals can be accomplished," they said, "if EPA does not possess the necessary comprehensive data with respect to the manufacture (including import) and use of asbestos in the US on which to act – data that currently EPA is not collecting under the CDR, as EPA concedes" in its response to the NGO petitioners.

The petition was filed by attorneys from 14 states – including California, Massachusetts, Washington and Oregon – as well as the District of Columbia. The agency is required to grant or deny it within 90 days.



Kelly Franklin

North America editor

Related Articles

- [EPA denies petition for expanded TSCA asbestos reporting](#)
- [NGOs petition US EPA to require asbestos reporting](#)
- [EPA names first ten chemicals for new TSCA evaluations](#)

Further Information:

- [Petition](#)
- [TSCA section 21 petitions](#)

Democrats press EPA on public comment periods, enforcement

5 February 2019 / Enforcement, United States

A group of US Senate Democrats has requested that the EPA reopen and extend public comment periods that were affected by the partial government shutdown.

Democrats on the Environment and Public Works Committee (EPW) said in a 1 February letter that, with a funding lapse leaving the EPA's workforce furloughed for more than a month, regulatory websites went updated or were unreliable. And the ten senators have asked that the agency reopen or extend comment periods on proposed regulations by no less than 35 days, and to reschedule public hearings that were cancelled during the shutdown.

"According to past precedent and EPA's own public health mission, a government shutdown cannot be allowed to obstruct public participation in our regulatory process," they wrote.

EPA enforcement eyed

Meanwhile, leaders of the House of Representatives Energy & Commerce Committee (E&C) are pressing the EPA to provide them with more information on reports of "disturbing trends" in the agency's Office of Enforcement and Compliance Assurance (OECA). These include those in the media suggesting a decline in enforcement cases, reduction in enforcement staff and "overreliance" on states to conduct these activities.

The 1 February letter was signed by committee chairman Frank Pallone, Jr (D–New Jersey), Diana DeGette (D–Colorado), chair of the subcommittee on oversight and investigations, and Paul Tonko (D–New York), chair of the subcommittee on environment and climate change.

The E&C leaders have also been behind recent requests for the EPA to furnish information on the delayed publication of an Agency for Toxic Substances and Disease Registry (ATSDR) study on per- and polyfluoroalkyl substances (PFASs), and for it to release studies related to its draft TSCA assessment of pigment violet 29 that are being withheld as confidential.

Congressional attention on EPA activities is expected to remain high, following the power shift in the House of Representatives triggered by last November's midterm elections.

Related Articles

- [Congressional Democrats turn up the heat on the EPA](#)
- [Democrats call for release of CBI data underlying TSCA evaluation](#)
- [US chemicals industry prepares for increased TSCA oversight](#)
- [US midterms trigger leadership shifts for chemical legislation](#)

Further Information:

- [EPW public comment request](#)
- [E&C enforcement request](#)

Expert Focus: Japan's CSCL amendments

Global Business Briefing, February 2019 / Japan

Taro Ishikawa, general manager of the Japan Environmental Management Association for Industry, discusses the amendments to the Chemical Substance Control Law and why the changes are good news for companies



Japan's Chemical Substance Control Law ([CSCL](#)) was amended with effect from this January. This changed the basis for the notification of small quantities of substances from production or import volume to environmental emissions quantity.

This term refers to the quantity obtained by multiplying the production or import quantity by the emission factor, which is determined by the application.

According to the Ministry of Economy, Trade and Industry (Meti), the number of newly submitted applications with low production volumes is increasing year-on-year. The number of volume adjustments in Japan is also going up.

The [CSCL](#)'s new substance notifications are based on tonnage threshold limits, but these are different from those of REACH. The lowest tonnage band notification was ≤ 1 tonne/year, but this refers to the total aggregate volume manufactured in or imported into Japan.

What's new?

The amendment is good news for industry, because the maximum volume a company can manufacture or import could be significantly increased, depending on the uses of new substances.

The old system operated on a 'first come, first served' basis and Meti would not inform companies how much of a volume limit had been taken up by a competitor. So, if a company notified 900 kg/year of, for example, an ingredient in paint in January, a prospective notifier in April could import only up to 100kg during the same year.

Under the current system, a company can import a new substance for paints at up to 100 tonnes/year because the coefficient value for paint is 0.01. Even if a competitor notifies 1,000 kg/year for a new substance in January, the same substance may be manufactured or imported at up to one tonne in the same year within the parameters of small amount notification.

Requirements

The application requirements have also been updated in three ways. First, the use certification form must be attached and then there is a change to the quantity volume limit for small quantity notification as described above. The emission factor is available on Meti's [website](#). The ministry reserves the right to conduct inspections to verify that the chemical is used as notified. The emission factor of 1 will be applied if the use certificate form is not attached and the maximum allowable manufacture/import limit will automatically be 100kg per application.

Secondly, a chemical structure file (MOL file) must be prepared digitally for an application, using specific software.

[Guidance](#) is available from Meti on this. Different levels of description are required according to substance:

- for single component substances (including inorganic substances): the substance structure;
- for polymers: the monomer substance structure; and
- for non-stoichiometric compounds, such as quartz glass: the constituent elements.

In addition, [application windows](#) have increased from four to ten times/year, while an electronic certificate is no longer required for electronic notifications. Applications may also be submitted in the form of a CD or DVD. Meti encourages applicants to submit electronically, but physical submission is still available.



Certificate of use

It is necessary to confirm the use of a substance in order to calculate the environmental emission quantity of a substance. So at the time of application, a document certifying the reason for the use should be created by the ‘user’. The manufacturer or importer must retain the original certificate for at least three years.

The person who creates a use certificate must specify that the new chemical substances or preparations will be used for one of the 48 categories for which the environmental discharge quantity is set. When the same substance is used for one purpose by multiple businesses, you should create a certificate of use so that the applicant can prepare an application form for each purpose. However, if you cannot predict or manage each application, you should create a certificate with multiple uses.

In addition, if the amount of usage for each application cannot be predicted or managed, based on the information provided by the user, the applicant will submit together multiple applications. In this case, the environmental emissions are calculated using the maximum emission factor.

Who has what obligations?

Figure 1 has five examples of substances, showing the responsibilities of the various supply chain players at different stages of the life cycle.

Example: Code #115 - paint, coating	Manufacturing a new substance for paint	Manufacturing paint by formulating the paint ingredient	Purchasing the product and applying it to cars
Life cycle stage	Manufacture/import	Formulation	Use at industrial site
Company	Manufacture/import	Downstream user	User of formulation
Responsibility	Notifier	Preparing use confirmation letter	(Preparing use confirmation letter)

Example: Code #113 - Water	Manufacturing a new substance for paint	Detergent manufacturer producing a detergent by formulating water-based cleaning agent.
-----------------------------------	---	---

Life cycle stage	Manufacture/import	Formulation
Company	Manufacture/import	Downstream user
Responsibility	Notifier	Preparing use confirmation letter

Example: Code #101 - Intermediate	Manufacturing new substance for intermediate	Producing a substance by causing the intermediate new substance to undergo synthesis and polymerisation reaction
Life cycle stage	Manufacture/import	Use at industrial site
	Manufacture/import	Downstream user
Responsibility	Notifier	Preparing use confirmation letter

Example: Code #109 - for export	Manufacturing a synthetic resin	Incorporating additives into synthetic resin	Export synthetic resin
Life cycle stage	Manufacture/import	Formulation	Exporting by a trader
	Manufacture/import	Downstream user	Exporter of the substance
Responsibility	Notifier		Preparing use confirmation letter

Example:	Manufacturing a component for process regulation such as catalyst	Chemical process regulator used in chemical reaction process
Code #110 - chemical process regulator	Substance for intermediate	
Life cycle stage	Manufacture/import and formulation	Use at industrial site
Company	Manufacturer/importer and user of new substance	Downstream user

Responsibility	Notifier	(Preparing use confirmation letter)
	Preparing use confirmation letter	

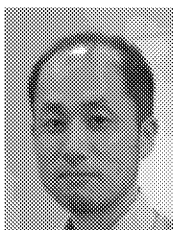
* A trading company does not fall under the term 'user'. However, when exporting chemical substances, even a trading company is a user.

The key practical steps for small volume applications are:

- collecting the information on a new substance and describing the structure;
- asking the downstream user for the use information;
- drafting the application forms;
- submission; and
- approval by Meti.

The required information for small quantity application includes:

- name of the site (only for manufacturer);
- address of the site (only for manufacturer);
- name of new substance (International Union of Pure and Applied Chemistry nomenclature);
- chemical structure (must be provided as MOL file);
- phys-chem information (appearance, melting point, boiling point, solubility to solvent);
- composition;
- fiscal year;
- planned volume manufactured or imported;
- use code number;
- country of origin (only when imported); and
- reference information (volume of the previous year's allocation, linking information on the substance and the product name (if only the product name is indicated on the use confirmation letter)).



Taro Ishikawa

General Manager Japan Environmental Management Association for Industry

View [transparency statement](#)

Related Articles

- [Japan reviews Chemical Substances Control Law](#)
- [Japan expects 10,000 substances to be notified by first deadline](#)

Further Information:

- [Meti's CSCL information](#)

© 2019. Reprinted and distributed by kind permission of Chemical Watch.